

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

US EPA RECORDS CENTER REGION 5



UNITED STATES OF AMERICA,)	
Plaintiff,)	
v.)	
CHEMETCO, INC.,)	
Defendant.)	Civil Nos. 00-670-DRH
)	00-677-DRH (consolidated)
)	CJRA Track C
PEOPLE OF THE STATE OF)	
ILLINOIS, <i>ex rel.</i> LISA MADIGAN,)	Hon. David R. Herndon
ATTORNEY GENERAL OF THE STATE)	U.S. District Judge
OF ILLINOIS,)	
Plaintiff,)	Magistrate Judge Donald G. Wilkerson
v.)	
CHEMETCO, INC.,)	
Defendant.)	

ORDER GRANTING JOINT MOTION TO AMEND INTERIM ORDER

The joint motion of the Plaintiff PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, and the Defendant Chemetco Inc. through the Bankruptcy Estate of Chemetco to amend the Interim Order entered on September 28, 2008 IS GRANTED.

1. On September 16, 2008, this Court entered the Interim Order to govern certain Work (as defined in the Interim Order) to be undertaken by the Trustee of the Chemetco Estate (the "Trustee"). The Interim Order contemplated the Trustee's future submittal to the Illinois Environmental Protection Agency (IEPA) of a Demolition and Scrapping Plan for the demolition and scrapping of the Foundry Building at the Chemetco Facility.^{1/} See Interim Order at paragraphs 18 and 20. On December 11, 2009, Industrial Asset Disposition LLC (IAD) and the Trustee submitted a Demolition and Scrapping Plan for the Foundry Building and tank house and adjacent American Air Filter (AAF) System at the Chemetco Facility. IAD will be the Supervising Contractor for the Estate in performing the Approved Demo Plan. IEPA approved the Demolition and Scrapping Plan with conditions on June, 22, 2010 (the "Demo

^{1/} Note capitalized terms not defined in this Motion have the meaning set forth in the Interim Order.

Approval"). A copy of the revised Demolition and Scrapping Plan addressing the conditions contained in the Demo Approval was submitted on June 24, 2010 and was attached as Exhibit A to the joint motion (the "Approved Demo Plan"). Pursuant to Paragraph 13 of the Interim Order, the Approved Demo Plan is incorporated into and enforceable under the Interim Order.

2. The Approved Demo Plan provides for relocation of certain existing materials at the Chemetco Facility to reduce the threat of release to the environment and to provide for appropriate worker safety in accordance with alternative measures approved by Illinois EPA as equivalent to that applicable to RCRA Hazardous Wastes. IAD will be responsible for managing and maintaining those materials in accordance with the Approved Demo Plan.

3. This Court has continuing jurisdiction over the subject matter of the Interim Order. See Interim Order ¶ 69. This Court may approve modifications of the Interim Order. Interim Order ¶ 76.

4. The Interim Order is modified as follows:

a. Paragraph 5.a. of the Interim Order is revised to read:

The Trustee shall manage all Work Affected Materials as if it were a RCRA hazardous Waste in accordance with the Hazardous Waste regulations. The Trustee and/or IAD **shall manage the Work Affected Material subject to the Approved Demo Plan in accordance with the Approved Demo Plan which is incorporated into and enforceable under this interim Order pursuant to Paragraph 13 thereof.**

b. Paragraph 66 of the Interim Order is revised by adding these two new sentences:

The "matters addressed" in the Interim Order also include all Work to be performed by IAD in accordance with the Approved Demo Plan. The Parties agree, and by approving this amendment to the Interim Order this Court finds, that the Trustee and IAD are entitled, as of the date of entry of this amendment to the Interim Order, to protection from contribution action or claims as provided by CERCLA section 113(f)(2), 42 U.S.C. 9613(f)(2), for that portion of "matters addressed" in this Interim Order through the Work undertaken in accordance with the Approved Demo Plan.

5. Other than as specifically provided above, the language of the Interim Order shall remain unchanged.

ENTERED THIS __ DAY OF _____, 2010

District Judge